

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TINA BACA,

Plaintiff

v.

No. 13-cv-01065-LAM

**CAROLYN W. COLVIN, Acting
Commissioner of the Social Security Administration,**

Defendant.

**ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff's *Motion for Attorney Fees Under the Equal Access to Justice Act* (Doc. 24) and memorandum in support [Doc. 26]. In the memorandum in support of the motion, Plaintiffs' counsel asks for an award of \$8,253.20 in attorney fees and \$350.00 in costs. [Doc. 26 at 1]. No response to the motion has been filed and the time for doing so has passed. In a stipulated order submitted to the Court, Plaintiff states that the parties have agreed to a revised amount of \$7,150.00 in attorney fees and \$350.00 in costs, for a total amount of \$7,500.00. Having considered the motion and memorandum in support, the record in this case, and the relevant law, the Court **FINDS** that Plaintiff's motion shall be **GRANTED in part**.

IT IS THEREFORE ORDERED that Plaintiff's *Motion for Attorney Fees Under the Equal Access to Justice Act* (Doc. 24) is **GRANTED in part**, and Plaintiff is authorized to receive the parties' agreed-upon amount of **\$7,500.00** for payment to Plaintiff's attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

IT IS FURTHER ORDERED that, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's attorney shall refund the smaller award to Plaintiff pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 n.4 (2010) (explaining that, if a claimant's counsel is ultimately granted attorney fees under § 406(b) out of the claimant's benefit award, the claimant's attorney must refund to the claimant the amount of the smaller fee).

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent

SUBMITTED BY: *(Prior to modification by the Court)*

Filed Electronically
Michael F. Hacker, Esq.

Approved as to form:

By E-Mail 2/11/15
Manny Lucero, Esq.

By E-Mail 2/10/15
Stuart Lipke, Esq.